Commission Implementing Regulation (EU) 2018/81 of 16 January 2018 concerning the classification of certain goods in the Combined Nomenclature

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concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[(1)], and in particular Articles 57(4) and 58(2) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87[(2)], it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/81. (See end of Document for details)*

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 January 2018.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/81. (See end of Document for details)*

ANNEX

Description of the goods	**Classification (CN-code)**	**Reasons**
(1)	**(2)**	**(3)**
Electrical apparatus for skin treatment and hair removal by means of laser technology, using two lasers of different wavelengths (755 and 1 064 nm). It has dimensions of approximately 104 × 38 × 64 cm and a weight of 82 kg. The treatment for which it is presented includes hair removal, cosmetic rejuvenation, treatment of facial and leg veins, treatment of uneven pigmentation (for example, sun spots), and treatment of other vascular and benign pigmented lesions. The apparatus is designed to be used both in beauty parlours without the intervention of medical practitioners and in authorised medical centres under the supervision of medical practitioners. See image[a].	8543 70 90	Classification is determined by general rules 1, and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 8543, 8543 70 and 8543 70 90. The fact that the apparatus mainly brings about aesthetic improvement, it may be operated outside of a medical environment (in a beauty parlour) and without the intervention of a practitioner indicates that the apparatus is not intended for medical use. The apparatus can also treat one or more different pathologies but this treatment can be also carried out outside of a medical environment and there are thus not sufficient indications capable of establishing that the apparatus is intended for medical use (see Case C-547/13, Oliver Medical, ECLI:EU:C:2015:139). Classification under heading 9018 as an apparatus used in medical science is therefore excluded. Consequently, the apparatus is to be classified under CN code 8543 70 90 as an electrical apparatus, having an individual function, not specified or included elsewhere in Chapter 85.

a The image is purely for information.